



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
1520 ROYAL PALM SQUARE BOULEVARD, SUITE 310
FORT MYERS, FLORIDA 33919

June 2, 2009

JUN 02 2009

Jacksonville Regulatory Division
Fort Myers Section

PUBLIC NOTICE

Permit Application No. SAJ-2008-00379 (IP-LAE)

TO WHOM IT MAY CONCERN: This district has received an application for a Department of the Army permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. §403) and Section 404 of the Clean Water Act (33 U.S.C. §1344) as described below:

APPLICANT: Sandcorp LLC
Dr. Wayne Isaacson
13100 Linton Road
Fort Myers, FL 33908

WATERWAY/LOCATION: The project site is an existing bulk-headed single-family residence located along an un-named tidal man-made upland-cut canal, in Section 35, Township 45S, Range 23E, Fort Myers, Lee County, Florida.

Directions to the site: From the intersection of Colonial and McGregor Boulevards in Fort Myers, travel south on McGregor Boulevard for 6.5 miles; turn right onto Iona Road for 2.0 miles; turn right onto John Morris Road for 0.25 mile; turn left onto Linton Road for 0.04 miles to site on right.

LATITUDE & LONGITUDE (NAD83): Latitude 26.516928 N
Longitude 81.969459 W

PROJECT PURPOSE:

Basic: to fill a dead-end basin within a tidal man-made canal

Overall: to fill a dead-end basin within a tidal man-made canal to improve overall water quality near an existing bulk-headed single-family residence in Fort Myers, Florida.

PROPOSED WORK: The project involves discharge of clean fill to a tidal man-made upland-cut canal end-basin characterized by poor water quality and lack of tidal flushing. The proposed work

involves direct impacts to Waters of the United States via: a) discharge of 520 cubic yards of clean fill material to the end-basin (0.15 acre/6,570 square feet); b) discharge of 10 cubic yards of 6-12-inch diameter limestone rip-rap within the tidal canal adjacent to the end-basin (0.003 acre/140 square feet); c) removal of existing wooden bridge/swim platform structures. The duration of construction is estimated at 1-2 weeks using land-based heavy equipment. The demolished materials will be subject to short-term on-site dumpster storage, with ultimate disposal at a licensed local landfill facility.

Avoidance and Minimization Information: The applicant's efforts to avoid and/or minimize impacts to the aquatic environment are as follows. The applicant considered a variety of design plans and the proposed work incorporates costs, logistics and minimization of wetland impacts including: a) the applicant has proposed the minimum amount of fill required to make the project feasible; b) the applicant will use land-based heavy equipment; c) the project will result in improved water quality in the canal and nearby (350-feet) Caloosahatchee River that are currently affected by a lack of tidal flushing in the end-basin.

Compensatory Mitigation: The applicant provided a Uniform Mitigation Assessment Method (UMAM) analysis and UMAM-based compensatory mitigation plan which consists of purchase of 0.03 saltwater forested mitigation credits from the Little Pine Island Mitigation Bank, which is within the same service area as the proposed impacts to account for unavoidable functional losses to the aquatic environment.

EXISTING CONDITIONS: The project site is an existing bulk-headed single-family residence located along a tidal man-made upland-cut canal. Due to the configuration/setting of the end-basin, a lack of tidal flushing results in impaired water quality in the canal and nearby (350-feet) Caloosahatchee River. The 374 linear-foot shoreline of the end-basin is fringed with an 8-foot wide red mangrove fringe; average water depth is 2.5 feet; there are no seagrasses or submerged aquatic vegetation in the area.

ENDANGERED SPECIES: The U.S. Army Corps of Engineers (Corps) has determined: 1) the project "may affect, is not likely to adversely affect" (MANLAA) the manatee or its designated critical habitat (2008 Manatee Key Sequential Effect Determination: (A>B>C>G>N>O>P = MANLAA)); 2) the project is located more than 11 miles from the nearest wood stork colony; however, since the project is located within a 18.6-mile Core Foraging Area for the wood stork, the Corps evaluated potential

impacts to the wood stork; results of a sequential effect determination using the 2007 wood stork Key are: A>B = "no effect", due to a lack of suitable foraging habitat; and 3) the project poses "no effect" for swimming sea turtles and the smalltooth sawfish. The effect determinations are based on information provided by the applicant, and the applicant's willingness to comply with the *Standard Manatee Conditions for In-Water Work* (FWS 2005) and the *Sea Turtle and Smalltooth Sawfish Construction Conditions* (NMFS 2006). The Corps has programmatic concurrence for listed species under U.S. Fish & Wildlife Service and National Marine Fisheries Service (NMFS) purview, and no further consultation is required.

ESSENTIAL FISH HABITAT (EFH): This notice initiates consultation with the NMFS on EFH as required by the Magnuson-Stevens Fishery Conservation and Management Act of 1996. The proposal would impact approximately 6,710 square feet of surface waters (including 2,992 square-feet of red mangrove fringe); however, a biological/bottom survey provided by the applicant indicated minimal site utilization by fishes (fine mesh yields were 2 individual fish, *Gambusia* and sailfin molly) and a lack of benthic resources. The end-basin bottom substrate is comprised of silt overladen with 4 feet of organic detritus as a result of a lack of tidal flushing and the basin exhibits poor water quality (dissolved oxygen deficient) conditions; there are no anticipated adverse impacts to various life stages of fishes or other aquatic species associated with the proposed work, and the project will result in improved water quality in the canal and Caloosahatchee River. The Corps initial determination is that the proposed action would not have a substantial adverse impact on EFH or federally-managed fisheries in the vicinity of the site. Our final determination relative to project impacts and the need for mitigation measures is subject to review and coordination with NMFS.

NOTE: This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program. The jurisdictional line has not been verified by Corps personnel.

AUTHORIZATION FROM OTHER AGENCIES: The Florida Department of Environmental Protection (FDEP) has deemed the project is an exempt activity (File No. 36-0285941-002; May 14, 2009).

Comments regarding the application should be submitted in writing to the District Engineer at the above address within 21 days from the date of this notice.

If you have any questions concerning this application, you may contact Linda A. Elligott at the letterhead address, via e-mail at Linda.A.Elligott@usace.army.mil, by fax at 239-334-0797, or by telephone at 239-334-1975, Ext. 32.

The decision whether to issue or deny this permit application will be based on the information received from this public notice and the evaluation of the probable impact to the associated wetlands. This is based on analysis of the applicant's avoidance and minimization efforts for the project, as well as the proposed compensatory mitigation.

IMPACT ON NATURAL RESOURCES: Preliminary review of this application indicates that an Environmental Impact Statement will not be required. Coordination with US Fish and Wildlife Service, Environmental Protection Agency (EPA), the National Marine Fisheries Services, and other Federal, State, and local agencies, environmental groups, and concerned citizens generally yields pertinent environmental information that is instrumental in determining the impact the proposed action will have on the natural resources of the area. By means of this notice, we are soliciting comments on the potential effects of the project on threatened or endangered species or their habitat.


IMPACT ON CULTURAL RESOURCES: Review of the latest published version of the National Register of Historic Places indicates that no registered properties, or properties listed as eligible for inclusion therein, are located at the site of the proposed work. Presently, unknown archaeological, scientific, prehistorical, or historical data may be lost or destroyed by the work to be accomplished.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including cumulative impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act of the criteria established under authority of Section 102(a) of the Marine, Protection, Research, and Sanctuaries Act of 1972. A permit will be granted unless its issuance is found to be contrary to the public interest.

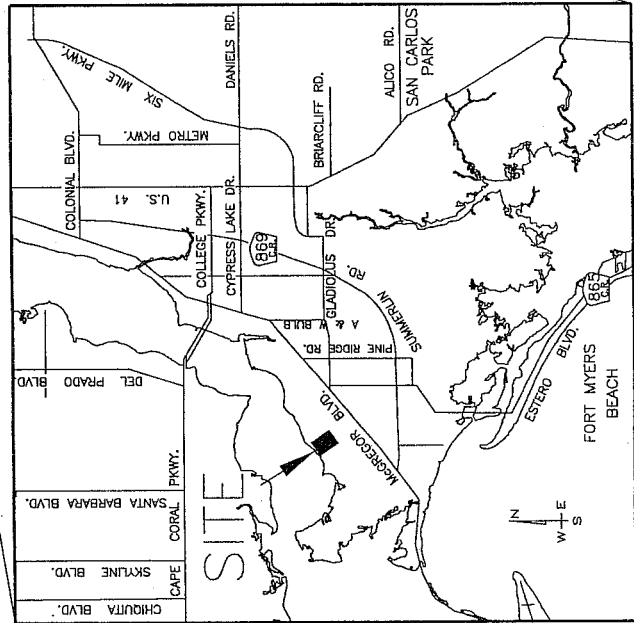
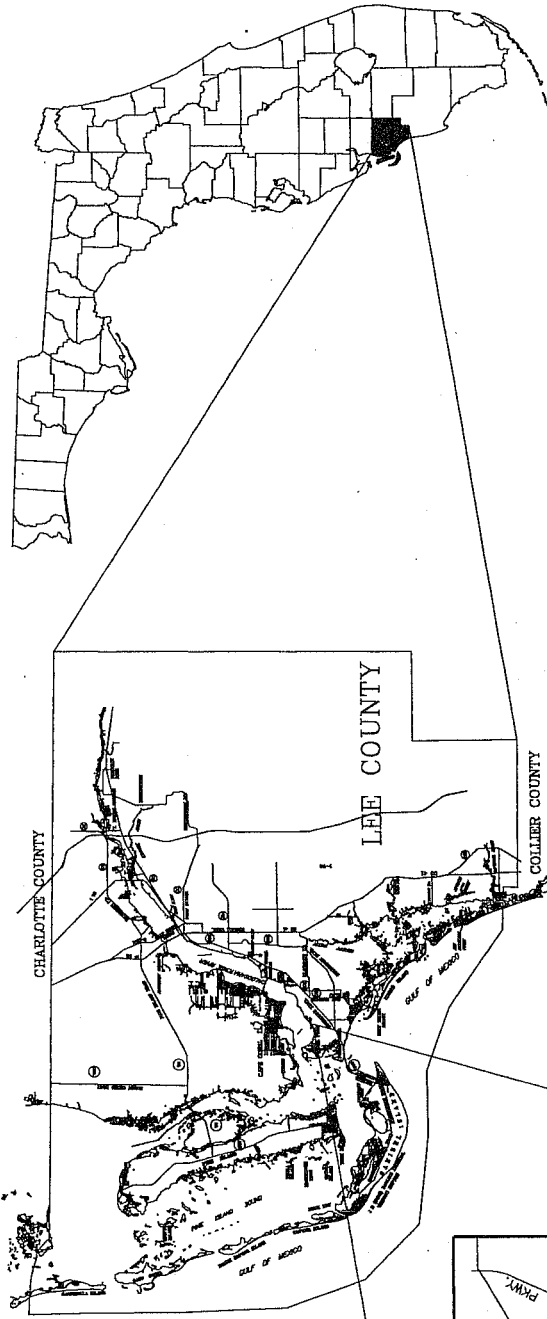
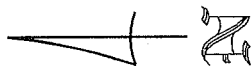
The US Army Corps of Engineers (Corps) is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make or deny this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

COASTAL ZONE MANAGEMENT CONSISTENCY: In Florida, the State approval constitutes compliance with the approved Coastal Zone Management Plan. In Puerto Rico, a Coastal Zone Management Consistency Concurrence is required from the Puerto Rico Planning Board. In the Virgin Islands, the Department of Planning and Natural Resources permit constitutes compliance with approved Coastal Zone Management Plan.

REQUEST FOR PUBLIC HEARING: Any person may request a public hearing. The request must be submitted in writing to the District Engineer within the designated comment period of the notice and must state the specific reasons for requesting the public hearing.


David S. Hobbie
Regulatory Division

PROJECT LOCATION MAP



RECEIVED - D.E.P.
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SOUTH DISTRICT

SAJ-2008-00379 (IP-LAE)
Sandcorp LLC
June 2, 2009
Figure 1/4

PLOTTED 4/20/09 (JSM)

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A.H.C.
MARINE & ENV.

REVISIONS

SITE MAP

ISAACSON BASIN FILLING

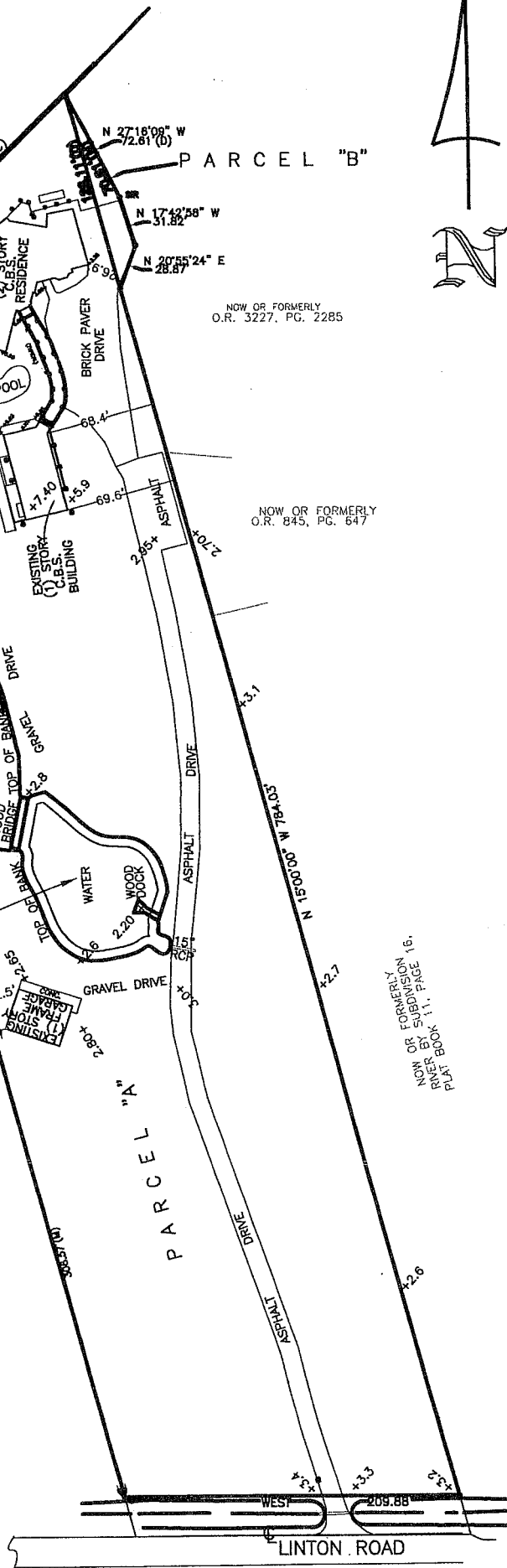
SHEET
1 OF 4

INFORMATION SHOWN HEREON ORIGINATED
FROM SURVEY PREPARED BY TKW, DATED
NOVEMBER 2007. DRAWING:
07581.ISAACSON

AREA TO BE FILLED
SEE DETAIL NEXT PAGE

NOW OR FORMERLY
O.R. 461, PG. 15 AND
O.R. 428, PG.96

CALOOSA HATCHEE RIVER



NOW OR FORMERLY
O.R. 3227, PG. 2285

NOW OR FORMERLY
O.R. 845, PG. 647

NOW OR FORMERLY
RIVER BY SUBDIVISION
PLAT BOOK 11, PAGE 16.

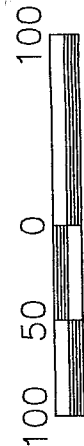
LEE COUNTY PROPERTY APPRAISER PARCEL NUMBER:

35-45-23-00-000006.0000

PROPERTY ADDRESS:

3100 LINTON ROAD, FORT MYERS, LEE COUNTY, FLORIDA 33908

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GRAPHIC SCALE

1" = 100'

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Sandcorp LLC

June 2, 2009

Figure 2/4

PLOTTED 4/20/09 (JSM)

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AAH
MARINE #1

REVISIONS

EXISTING
CONDITIONS PLAN

ISAACSON BASIN FILLING

SHEET

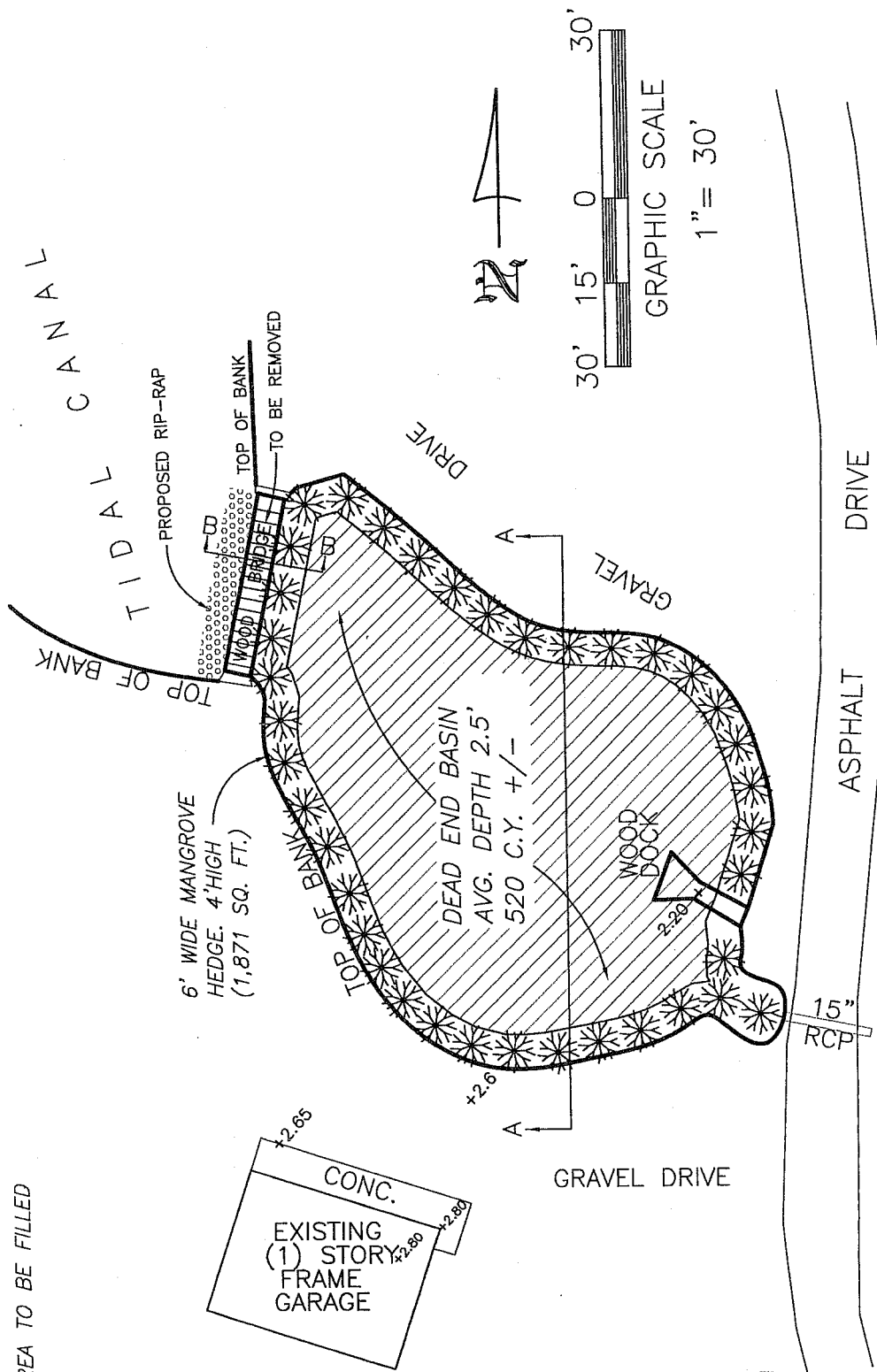
2 OF 4

"DETAIL"

LEGEND:



= AREA TO BE FILLED



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SAJ-2008-00379 (IP-LAE)
Sandcorp LLC
June 2, 2009
Figure 3/4

DATED 4/20/09 (JSM)



AH CON
MARINE & ENVIRONMENTAL

REVISIONS

PROPOSED FILL AREA

ISAACSON BASIN FILLING

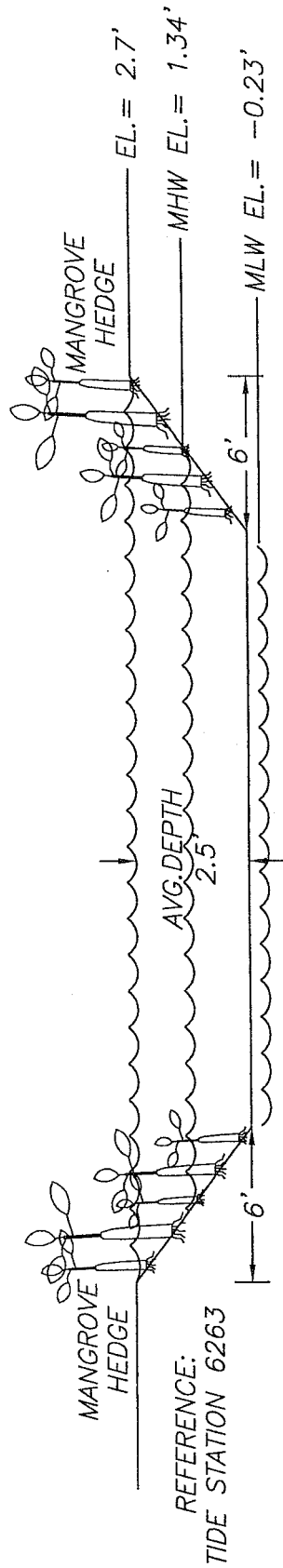
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3 OF 4

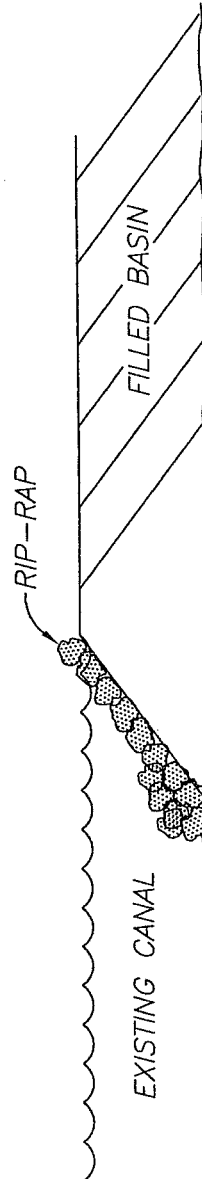
LEGEND:

MHW EL. = MEAN HIGH WATER ELEVATION
MLW EL. = MEAN LOW WATER ELEVATION

SECTION A-A



SECTION B-B



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APR 20 2009
SOUTH DISTRICT

ELEVATIONS SHOWN HEREON ARE REFERENCED TO N.G.V.D. 1929

SAJ-2008-00379 (IP-LAE)
Sandcorp LLC
June 2, 2009
Figure 4/4

SHEET 4 OF 4	ISAACSON BASIN FILLING	CROSS SECTIONS	REVISIONS	AH MARINE &
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